

## MINUTES



## REGULAR MEETING OF THE PLANNING COMMISSION, CITY OF HAYWARD, Council Chambers

Thursday, May 10, 2001, 7:30 P.M.  
777 "B" Street, Hayward, CA 94541

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5:30 P.M.      WORKSESSION ROOM 1C  
Preliminary Draft of the Five-Year Capital Improvement Program (Fiscal  
Years 2001-2002 Through 2005-2006)

### MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Caveglia, followed by the Pledge of Allegiance.

### ROLL CALL

Present:            COMMISSIONERS    Bogue, Halliday, Sacks, Thnay, Williams, Zermeño  
                         CHAIRPERSON        Caveglia  
Absent:            COMMISSIONER        None

Staff Members Present:                    Anderly, Conneely, Garcia, Looney, Patenaude, Pearson

General Public Present:                    Approximately 12

### PUBLIC COMMENT

There were no public comments.

### AGENDA

1. Use Permit No. 01-160-02 & Tentative Map Tract 7306 - The Olson Company (Applicant); Annie Garcia & Leonard Perrillo (Owners): Request to develop 19 single family detached condominium units on 1.79 acres.
2. Variance No. 01-180-08 - Ahmed Hussain (Applicant/Owner): Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required. The property is located at 27167 Fielding Drive, and is a part of the Hayward Highlands Neighborhood Plan Area in the Single-Family Residential District with a minimum lot size of 6,000 square feet (RSB6).

### PUBLIC HEARINGS

1. Use Permit No. 01-160-02 & Tentative Map Tract 7306 - The Olson Company (Applicant); Annie Garcia & Leonard Perrillo (Owners): Request to develop 19 single family detached condominium units on 1.79 acres.

**DRAFT**

Associate Planner Pearson presented the staff report. He noted that the site location is at O'Neil Avenue. The applicant presented a revised map. The proposal includes 19 condominium units to be developed as single-family homes. It will be Spanish Ranch style architecture. There will be seven visitor-parking spaces throughout the project. Parking for owners will be in garages attached to the buildings. There is adequate parking available. Staff recommends that the Planning Commission find the proposed project categorically exempt from CEQA, approve the use permit and the tentative tract map, subject to the attached findings and conditions of approval.

Commissioner Halliday asked whether the property is in the redevelopment area. She was told that it was within the proposed redevelopment area.

Commissioner Sacks asked about the changes on the map.

Planning Manager Anderly explained that they were working to save the bay tree on the property. To do that the entrance was moved to accommodate the tree. Three homes would be built on one side of the drive and one on the other. She called attention to the reduced front yard setback and suggested an added condition of approval that all dwelling units will meet the required front yard setback. She added that if variances are necessary with revised plans, the project will return to the Planning Commission for their review.

The public hearing opened at 7:48 p.m.

Fred J. Musser, The Olson Company, San Ramon, talked about the project. They are proposing a detached condominium product. The project represents a "hybrid" between single-family and multi-family development. This offers a lifestyle for either younger or older people. There are a lot of people who would like a smaller yard for minimum upkeep, but would still like yard space available for privacy. For these units, the average usable back yard area ranges from 300+ square feet to 500 or 600 square feet. This is part of the "Smart Growth" planning. It is a unique product for Hayward. He showed pictures of projects in other cities as examples of what the project will look like. He noted that although there are two car garages in several units, they look like a single-car garage since they are accessed from different sides.

Chairperson Caveglia asked about pricing. He was told they would probably sell in the \$300 - 400,000 range.

Mr. Musser described the challenge of saving the bay tree on the property.

Commissioner Halliday asked about the orientation of the houses on O'Neil. She was told the orientation had not changed much. The homes on O'Neil will face O'Neil Avenue. The garages were moved into the backs of the units, so entry would usually be from the back.

Commissioner Williams asked about the traffic circulation. He was shown how cars would circulate in the project.



Commissioner Zermefio asked about the trees shown on the east and west, and why there were none on the north and south. He was told that the trees that are being preserved are along the north and south.

Commissioner Sacks asked about condition 7, mechanical ventilation. She was told that because of the project's proximity to the BART tracks, acoustical windows and sound walls would be constructed. However, it may be too loud and dirty to open the windows, so air conditioning units will be installed as well.

Commissioner Thnay asked how this project relates to the City's Bike Master Plan. He was told information was not available at this time.

Commissioner Zermefio asked about the 20-foot setback on all the units. Planning Manager Anderly indicated that the 20-foot setback was for the main portion of the dwellings but that the front porches may intrude 5 feet into the setback.

Mr. Musser then discussed the group space areas. He said it is not large area, but could accommodate bar-b-ques and picnic tables.

Commissioner Williams asked about condition 24, which requires setbacks on the second stories. He was told that having the setback reduces the boxy appearance of the homes.

Commissioner Sacks asked about the project in Danville and how they manage to keep cars off the streets. Mr. Musser explained that it seems to be working adequately. He was not aware of reports of difficulties.

Commissioner Halliday asked about access to Orchard Avenue. She was told there was none because of the grade crossing. She then suggested a pedestrian outlet to Orchard, steps, perhaps.

Acting Principal Planner Patenaude said this might be possible. He suggested that staff could explore this idea with the applicant.

Suzanne Cox, 24942 O'Neil Avenue, on the south side of Orchard Avenue, described the present parking situation in the neighborhood. She said parking is a real problem on the north side of O'Neil. It is an older neighborhood that is crowded with cars.

The public hearing closed at 8:31 p.m.

Commissioner Bogue asked whether there is space to add parking in the plan.

Associate Planner Pearson said that initially, they did have more parking but that spaces had to be eliminated due to inadequate back-out space.

Chairperson Caveglia said Hayward is moving to an urban setting. And as such, at some point, the City has to say, "No" to more cars.

Commissioner Sacks **moved**, seconded by Commissioner Zermeño, the staff recommendation with the additional condition of approval that all dwelling units will meet the required front yard setback.

Commissioner Williams commented that having looked at the project site, he thought it was a tight site for this many units. He added that O'Neil is a tight street. He continued that staff has to look at whether we are meeting just the bare minimum standard. This site has too much mitigation with the trains, soundwalls, parking. He admitted that he had reservations about the traffic patterns within the complex.

Commissioner Sacks said she was happy to make the motion since this is another innovative way to look at housing solutions for Hayward. She appreciated that it was a condominium situation with Homeowner's Association, since Homeowner's Associations can generally take care of and prevent problems. She referenced her own living situation where there is no parking on the street. She noted that it could work if the people who live there want it to work.

Commissioner Thnay said he applauded the developer for preserving the trees and for the innovations in the architecture. He liked that they decided not to front the garages on the street. He commented that these homes are not going to be for families with many children. He added his optimism that the garages will go a long way toward alleviating parking problems. This is really a "Smart Growth" idea.

Commissioner Halliday commented that we are moving into being more urbanized and less suburbanized city. We cannot continue to plan around cars. She said she hoped the developer would look at this project carefully for additional convenience for pedestrians to encourage residents to ride a bike or walk to the area. This is more pedestrian friendly. She noted that we need to move more in this direction, and added that she would like to see a basketball hoop or something recreational in the common area to bring the residents out of their homes and together.

**The motion passed 7:0.**

- 2. Variance No. 01-180-08 – Ahmed Hussain (Applicant/Owner):** Request to construct a second story addition to a single family residence only 10 feet from the rear property line where a minimum of 20 feet is required. The property is located at 27167 Fielding Drive, and is a part of the Hayward Highlands Neighborhood Plan Area in the Single-Family Residential District with a minimum lot size of 6,000 square feet (RSB6).

Associate Planner Pearson described the plans. He noted that the applicant had gone through the

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process of acquiring permits through the City. The neighbor called attention to the fact that the rear setback is closer to the property line than is legally allowed. He commented that staff could support the application because of the difference in elevations between the two neighbors. He described the approximate difference in elevation of about six feet. He showed pictures from various views of the addition from several neighbor's viewpoints. Staff recommended approval of the variance, subject to findings and conditions. He suggested conditioning for opaque glass on the addition to maintain privacy.

The public hearing opened at 8:55 p.m.

Ron Peck, 28580 Barn Rock Drive, attorney and friend of the applicant, spoke for the applicant. He maintained that the applicant submitted his plans in good faith to the City, which were approved. He noted that the site plan is a carry over from an older site plan in the City's files. He stated that the applicant acted in good faith based on the information and approval he received from the City. He maintained that the Commission had to balance the hardship to the applicant versus the aesthetics. He pointed out that a 10-foot setback is not as important when the rooflines are on such a different levels. He stated that the addition is so far along that to change it now would be an incredible burden on the applicant. They have estimates that the cost would increase the project from \$50,000 to \$60,000. He then asked for the Commission to adopt the staff recommendation.

Rubin Nino, 27156 Columbia Way, a neighbor, stated the purpose of granting a variance. He maintained that to approve this would be a departure of the terms of the variance. He said that all the findings are not met. There are no special circumstances. He submitted a petition signed by 16 neighbors throughout the neighborhood, which asks for denial of the application maintaining that it would set precedent. It would encroach into the rear open space design of the neighborhood, and does not meet the criteria for granting a variance. He noted that even after the applicant was notified of the hearing, there was a continuation of the work. He urged members to deny the variance request.

The public hearing closed at 9:09 p.m.

Chairperson Caveglia said the issue is very simple. The City made an error. We have to try to rectify it. He would support the recommendation that was made.

Commissioner Bogue said he disagreed. He visited the area and could see the addition from the street and the street above. He commented that it is a huge addition and makes a tremendous impact. He maintained that allowing the variance on this would change the character of the homes in the area. He wondered whether the same effect in living space could be achieved if the applicant would combine a smaller bedroom with the present master-bedroom. This would reopen the space. He **moved to deny the variance**. The motion died for lack of a second.

Commissioner Williams **moved**, seconded by Commissioner Zermeño, to grant the variance. He commented that it was in the spirit of the law. He noted that the applicant came to the City and got his approvals. Why penalize him when he did everything in good faith? These were the special circumstances. The applicant did have approval.

Commissioner Halliday said this was a tough decision. Although she could sympathize with the neighbors, she could not be a party to penalizing the applicant. This is not setting a precedent. This is acknowledging that the City made a mistake and we have to correct it. She commented that generally if someone builds something without a permit and then asks for approval, the Commission takes a hard line in denying it. This was just something that happened a while ago. With great reluctance, she would support the motion.

Commissioner Thnay said he would concur with Commissioner Halliday. People do make errors. If an error is made by the City, the burden is on the City. He did say the second story should be set back. He said he would like to add a friendly amendment that the windows be opaque. This was agreed to.

Commissioner Sacks said she would like to vote "No" on the whole thing since she cannot figure out who is responsible. There are faults enough to go around. She indicated that her tendency would be to vote against the motion. She questioned the neighbor who objected in waiting so long to comment.

Commissioner Zermeño said there should be room for a compromise as to the architectural design.

Commissioner Bogue asked to make a friendly amendment since this structure is so imposing, he would like more interesting architectural detail to be added to the building to enhance it. Staff should work with the applicant. He suggested also that more landscaping be required.

Commissioner Williams said he would not accept the amendment. This would merely add more expense.

Commissioner Bogue said he would then make this a substitute motion. Commissioner Halliday seconded it. He agreed to **move** the staff recommendation with his amendment.

Commissioner Zermeño commented that currently there is no landscaping and nothing to enhance the boxlike effect of the addition.

Associate Planner Pearson agreed that there was not a lot of detail on the plans.

Commissioner Halliday said she could support this as a compromise. It could be a nice thing to work with staff and the neighbors to mitigate the situation. She indicated that she was reluctant to support the original motion.

Commissioner Bogue added the addition of the opaque window to his motion. He explained that

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his proposal would mean the applicant would work with staff for more architectural details, and developing a landscaping plan. He suggested that the windows have relief, something to change the appearance of the wall.

At the request of the applicant and Commissioner Halliday, the public hearing was reopened at 9:31 p.m.

Ron Peck explained that the applicant's intent is to have the same design around the house itself. He said the applicant had asked the neighbor whether there might not be a compromise that could be reached between them on the addition. He was told, "No." He also noted that this structure is almost 20 years old so much of the landscaping has been in place for a number of years.

Commissioner Sacks said in looking at the photographs, there is a nearby house, which is plain stucco, with no trim around windows. There is no difference between the applicant's proposal and this structure.

At the request of Commissioner Zermeño, Rubin Nino was also given a chance to speak further on his concerns.

Mr. Nino said he did not see the design originally. He explained that he had no idea of the size of the structure initially, which is why he did nothing to complain, although, he added, the frame was a concern. He said he had a number of other concerns.

Commissioner Bogue mentioned once again that on the drawings from the applicant there is no detail.

Chairperson Caveglia stated again that the point was the applicant was issued a permit to do this.

The motion **failed** by the following vote:

AYES:	COMMISSIONERS Bogue, Thnay, Halliday
NOES:	COMMISSIONER Zermeño, Williams, Sacks
	CHAIRPERSON Caveglia
ABSENT:	None
ABSTAIN:	None

Chairperson Caveglia then called for a vote on the original motion, in which Commissioner Sacks **moved**, seconded by Commissioner Zermeño, the staff recommendation with the additional condition of approval that opaque windows be used on the rear side of the upper floor.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS	Halliday,	Fish,	Sacks,
	Williams,	Zermeño		
	CHAIRPERSON	Caveglia		
NOES:	COMMISSIONER	Bogue,	Thnay	
ABSENT:	None			
ABSTAIN:	None			

### **ADDITIONAL MATTERS**

#### **3. Oral Report on Planning and Zoning Matters**

Planning Manager Anderly announced that there would be another meeting on May 31<sup>st</sup>

#### **4. Commissioners' Announcements, Referrals**

Commissioner Bogue described a change in the left turn lanes at the north end of Calaroga. Historically, the right turn lane alone goes right. Recently, the two left turn lanes were changed to a left turn, and the middle lane is now a left or right. This is confusing for many people. He suggested changing the turn lanes back into one right only and a double left, as it has been.

Commissioner Halliday clarified that there will be two more meetings in May, on the 24<sup>th</sup> and 31<sup>th</sup>. She was told this would be the case.

### **MINUTES**

- April 26, 2001 - APPROVED

### **ADJOURNMENT**

The meeting was adjourned by Chairperson Caveglia at 9:42 p.m.

**APPROVED:**

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Ed Bogue, Secretary  
Planning Commission

**ATTEST:**

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Edith Looney  
Commission Secretary

**DRAFT**